

NORTH OGDEN PLANNING COMMISSION

MEETING MINUTES

July 17, 2013

The North Ogden Planning Commission convened in a regular meeting on July 17, 2013 at 6:30 pm in the North Ogden City Municipal Building, 505 E. 2600 N. North Ogden, Utah. Notice of time, place and agenda of the meeting was furnished to each member of the Planning Commission, posted on the bulletin board at the municipal office and posted to the Utah State Website on July 12, 2013. Notice of the annual meeting schedule was published in the Standard-Examiner on December 30, 2012.

COMMISSIONERS:

Larry Residori	Chairman
Joan Brown	Commissioner
Steve Quinney	Commissioner
Dee Russell	Commissioner
Eric Thomas	Commissioner

STAFF:

Craig Barker	Community Development Director
Gary Kerr	Building Official
Stacie Cain	Community Dev. Coord./Deputy City Recorder

EXCUSED:

Blake Knight	Commissioner
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VISITORS:

Adam Baird
Mike Norseth
Randy Curtis

REGULAR MEETING

Chairman Residori called the regular meeting to order at 6:30 pm. Commissioner Quinney offered the invocation and led the audience in the Pledge of Allegiance.

CONSENT AGENDA

1. CONSIDERATION TO APPROVE THE JUNE 5, 2013 PLANNING COMMISSION WORK SESSION MINUTES.

Commissioner Thomas made a motion to approve the June 5, 2013 Planning Commission Work Session minutes. Commissioner Brown seconded the motion.

Voting on the motion:

Chairman Residori	yes
Commissioner Brown	yes
Commissioner Quinney	yes
Commissioner Russell	yes
Commissioner Thomas	yes

The motion passed unanimously.

2. CONSIDERATION TO APPROVE THE JUNE 5, 2013 PLANNING COMMISSION MEETING MINUTES.

Commissioner Thomas made a motion to approve the June 5, 2013 Planning Commission meeting minutes. Chairman Residori seconded the motion.

Voting on the motion:

Chairman Residori	yes
Commissioner Brown	yes
Commissioner Quinney	yes
Commissioner Russell	yes
Commissioner Thomas	yes

The motion passed unanimously.

ACTIVE AGENDA

1. PUBLIC COMMENTS.

Adam Baird, 778 E. 1550 N., asked if the Planning Commission considers traffic signals or requests to install stop signs or speed limit signs. Chairman Residori answered no. Mr. Baird asked if there is another person to work with to request a stop sign. Building Official Kerr stated Mr. Baird can contact him about that issue.

2. CONSIDERATION TO ELECT A VICE-CHAIRMAN OF THE PLANNING COMMISSION.

Commissioner Quinney made a motion to nominate Commissioner Thomas as the Vice-Chairman of the Planning Commission. Commissioner Russell seconded the motion.

Voting on the motion:

Chairman Residori	yes
Commissioner Brown	yes
Commissioner Quinney	yes
Commissioner Russell	yes
Commissioner Thomas	yes

The motion passed unanimously.

3. DISCUSSION ON POTENTIAL CHANGES TO THE OPEN SPACE REQUIREMENTS OF LEWIS PEAK PRUD.

A memo from Community Development Director Craig Barker explained staff has been contacted by the developer and owners association of the Lewis Peak PRUD who would like to discuss proposed changes to the Open Space requirements of this development. A map is included herewith showing the present improvements and spaces that have been improved in Phase I and the remaining improvements to be made.

Mr. Barker summarized his staff memo and provided a brief summary of the history of the Lewis Peak PRUD as well as an explanation of the purpose of a PRUD as defined by City Code.

Commissioner Brown stated that the developer of Lewis Peak approached the Planning Commission in April of this year and said they had two lots left in Phase I and they asked for permission to proceed with Phase II. She stated it was brought to their attention that they had been delinquent in providing the required common area in the development and she mentioned that they should have one month to complete the necessary work. She stated the Planning Commission agreed to give the developer two months to finish the work on the common area. Mr. Craig Barker stated the work is still not finished. Commissioner Brown agreed. Mr. Craig Barker stated that Mr. Kerr will provide the Planning Commission with an update regarding that issue as well as review the improvements that still need to be completed. He added there are members of the homeowners association (HOA) for the development that have some ideas they would like to discuss with the Planning Commission. He noted that it is not necessary for the Planning Commission to take action on this item tonight.

Chairman Residori asked when the final development plan was approved. Mr. Craig Barker stated it was approved sometime in 2008 or 2009. Commissioner Brown stated she believed it had been six years since the plan was approved.

Mr. Kerr stated just over two months ago Lyman Barker requested final approval of Phase II of the Lewis Peak PRUD and at that time he was given two months to finish the improvements in Phase I before the City would start the process of using escrow money to finish the project. Mr. Craig Barker asked how much money is in escrow. Mr. Kerr stated there is approximately \$172,000 in escrow, which is plenty of money to finish the improvements. He stated that when that two month period expired, staff started the process to use escrow money to finish the work and the first step in that process was to get a cost estimate for the work. He stated that once Mr. Lyman Barker found out the City had started the process he became somewhat 'excited'. He stated he has had to start this process for other developments a number of times, but there have only been two times in his 27 years with the City that he actually had to use escrow money to finish a project. He stated after he contacted the escrow company he was contacted by Corey Combe, the landscaper for the project, who provided him with a timeframe for the work to be completed and he gave a final completion date of August 1, 2013. He stated the only exception is relative to the detention basin and associated trail located in the development; the trail is between two properties and some of the people living there did not want the trail. He stated the HOA or Mr. Lyman Barker may request some changes associated with that issue, but Mr. Lyman Barker is aware that he must quickly get approval to change the plan for the development or install improvements according to the approved plan. He reviewed the improvement plan and highlighted the work that is not yet completed. He added in talking to some of the homeowners in the development he was told that they do not want stairs installed in the area of the detention pond and trail; they would prefer the trail only so that they do not need to negotiate stairs with their children or with strollers. He stated that he and Mr. Craig Barker have no objections to that. He noted Mr. Combe will finish all the landscaping in the common area and he will install all the street trees on Lund Street. He noted he talked to Mr. Combe about the trees in the subdivision and Mr. Combe did not feel some of the trees listed in the landscape plan were the best trees to use, so between him and the City Forrester they decided on appropriate trees for the area; the trees should have been purchased by now, but no work has been completed and the deadline to complete that work is August 1, 2013. Mr. Kerr noted there are 14 items on the list of items to be finished, but the landscaping and planting of the street trees are the biggest. He stated he is not sure if Mr. Lyman Barker has completed the other things on the list and he reviewed the other 12 items included on the list. He stated that it is his understanding that Destination Homes has built homes on all lots in the completed portion of the subdivision with the exception of two lots; one lot has been purchased by a private party and it has been landscaped and the other lot does not have a home on it. He stated all other lots have been sold, but they have not necessarily been built upon or occupied to date.

Chairman Residori asked if all lots are included on the plan that was provided to the Planning Commission. Mr. Kerr answered yes and stated he was only talking about Phase I of the project.

Commissioner Brown noted the infrastructure for Phase II is not yet completed. She then stated that Mr. Kerr noted that Mr. Lyman Barker became very excited when he learned the City may use his escrow money to complete the project, but he did not get excited enough to actually do the work. She stated she is very concerned by this and she noted that Mr. Lyman Barker was already allowed to delay the work for two months by making promises in a Planning Commission meeting. She stated she thinks that he will continue to try to stall. She stated she cannot go on hope that the project will be completed because the City has been too disappointed

by developers over the last 10 years. Mr. Kerr stated staff has already started the process of getting the escrow money to complete the project and that will proceed if the work is not done by August 1, 2013. He stated the City will send the list of uncompleted items to the escrow company and they are required to send the City a check within a couple of weeks.

Commissioner Brown stated the reason she is so concerned about this issue is that in May she ran into Ron Southwick at Valley Nursery and he told her that he was helping Mr. Lyman Barker and they were not going to follow the plan that the Planning Commission had approved.

Commissioner Brown stated that she told Mr. Southwick that he did not have the right to make that decision without first appearing before the Planning Commission, but that never happened. She stated she is concerned that Mr. Lyman Barker was talking about how to get out of doing the work three months ago and he came to the Planning Commission and explained that he only had two lots left to develop in Phase I and asked if he could proceed with Phase II. She stated that the Phase II of the development was not recorded and that leads her to believe that Mr. Lyman Barker was not actually ready to proceed and she is getting very apprehensive about the project. Mr. Kerr reiterated that if Mr. Lyman Barker does not have the work completed by August 1, 2013 he will write to the escrow company and request the money. He added that he will work with anyone to have them complete the work before August 1, 2013 because if it becomes his responsibility it will take his time and effort. He stated that in this case Mr. Lyman Barker has been given many opportunities and chances and by July 31, 2013 the work must be completed. He then noted that he has worked with Mr. Combe in the past and he is very reputable and he has no reason to believe that he would lie to him. Commissioner Brown stated Mr. Lyman Barker is a very nice man as well, but she has not seen him take action. She added that she drove to the development today and she does not think that what has been done qualifies as lawn; it looks like some seed has been planted and there is the slightest color of green, but it is a mess. She stated that she talked to Chairman Residori, who also visited the development, and he agrees with her. She stated there is a lot yet to be done to meet the requirements of the City as far as she is concerned. She stated she was a member of the Planning Commission when the original one story home was sold and the owner of the home put a lot of work and his life savings into the home and he was kind enough to let Destination Homes take over the completion of the project in a way that was contrary to his vision, but she thinks the Planning Commission has a responsibility to all the residents of the subdivision to make it look nice and give them what they thought they were getting when they purchased there. She added that Mr. Kerr noted there are residents in the subdivision that said they do not want the trails, but they knew the trail system was planned when they purchased their homes; it is common area and she asked how people will get to the common area if there is no trail to access it. She stated the common area will basically be an island and people will think it is private and they are not allowed to go there and use it for what they would like. She stated that the City is bending on what the developer agreed to provide six years ago. Mr. Kerr noted the August 1, 2013 date applies to the main common area, but the detention pond is a different issue and he does not know if the HOA or Mr. Lyman Barker is requesting the changes, but if that work is not done it will also be necessary for the City to use escrow money to finish it. A short discussion centered on the location of the trails and walking paths as well as the landscaping that must be completed by August 1, 2013.

Chairman Residori asked that the Planning Commission hear from the HOA.

Mike Norseth, 1546 N 775 E, stated he lives in the original green house that was built on the property.

Adam Baird, 778 E 1550 N, stated that he is also a resident of the subdivision.

Mr. Norseth stated that the residents are trying to get the HOA organized to assume the responsibility of the upkeep and maintenance of the landscaping that has been installed to date. He stated it has not been maintained at all; every once in a while someone mows the lawn, but it is not being fertilized and the trees are not being taken care of. He stated the residents want to see Phase I finished so that the HOA can be organized. He stated he had a discussion with Mr. Lyman Barker two months ago and he agreed to complete all the paperwork required to allow the residents to take over the property via the creation of a HOA, but that was never done. He stated a group of residents met last week and they have organized their own HOA; the residents elected three of their own to be the board members of the HOA. He stated Mr. Baird is the registered agent of the HOA. He added the residents had a discussion about the changes they would like to see to the landscaping plan and the HOA would like to propose those changes to the Planning Commission.

Commissioner Brown stated there are two designated common areas and she asked Mr. Norseth if he was talking about the larger common area in the center of the development. Mr. Norseth stated he will address each common area in turn. He stated the landscaping from 1700 North to the first lot is pretty well completed except for a grass area; it needs to be maintained in a better fashion, however. He stated that further to the east Mr. Combe had done a lot of work; he has removed weeds from the park strips and worked with Gary Chambers to install an irrigation system there as well. He stated it appears that work is underway to complete the landscaping and he hopes that it will all be finished by August 1, 2013. He stated that at the east end of the road there is a tiny parcel of property that is not currently attached to a lot and the resident living in the house immediately south of the parcel has expressed interest in buying the property to enlarge his yard. He stated Mr. Lyman Barker is in favor of that as is the HOA and they would prefer that no efforts or funding are spent on landscaping that parcel. Mr. Craig Barker stated that he has reviewed the common area requirements and it is possible for Mr. Lyman Barker to deed that property to the homeowner and still meet those requirements. Commissioner Thomas asked if the property is included in Phase I or II of the project. Mr. Norseth stated it is part of Phase I and it is included on the landscaping plan in the landscaped area along 1550 North. He then focused on the main detention basin and the plan includes a planned trail constructed of road base to run from 1550 North to the corner of Phase II of the subdivision; there is also some landscaping surrounding the trail and the HOA feels that landscaping needs to be installed before they would consider Phase I complete. He stated that as far as the pathway that runs into the basin, the community decided that path would not serve a purpose and they do not want to spend the money to install that path or benches around that area. Mr. Baird added that the HOA has no problem with the trail on the east side of the detention basin; the plans call for a trail that surrounds the basin and the HOA does not know if that is necessary. He stated there is still access to the basin and that was originally included in the plan to allow for people to walk around the basin, but it no longer makes sense based on the demographic of the community. He stated the HOA is asking for completion of the trail on the east side of the basin that runs from 1550 North to Phase II of the development while eliminating the need for the trail around the

basin and the stairs that would provide access down into the basin. Mr. Norseth continued by explaining there is an enlarged plan of the detention basin that shows the trail around the top in a loop and stairs going down into the basin itself and that is what the HOA would like to have eliminated. Chairman Residori inquired as to the total length of the trail that the HOA is asking to eliminate. Mr. Norseth estimated the total length is 150 to 200 yards. He then stated the next request is related to the detention basin in the corner of the development; it is not accessible by anyone except for those residents that live right next to it as it basically appears to be an extension of their backyard. He stated that there is no way to get a mower into the area to maintain it unless the person doing the work drives down the yards of the people that live next to it. He stated the plan shows a pathway on each end of the basin and it shows stairs on each of those paths and that is not a viable solution for mowers. He explained the neighbors have expressed concern about those paths and he is not sure what they know about the plans when they purchased their homes. He stated the HOA has decided that if the paths are eliminated in favor of providing a pathway on the first lot of Phase II that would provide access to the corner of the basin, that would provide a common way for people to access the area. He added there are no easements that show on the plats to provide paths to access the basin.

Commissioner Brown asked Mr. Craig Barker if an easement should have been placed on the plat when the common area was designated. Mr. Craig Barker stated that would not have necessarily been required and noted that the final development plan established the plat and they become easements by right of use. Commissioner Brown stated she does not want the residents in the subdivision to feel disenfranchised from that common area; she does not want the neighbors that live next to the basin to feel that it is their yard and tell people they cannot use it. She stated that she knows of other situations in the City where that has occurred. Mr. Norseth stated that he wholeheartedly agrees with that sentiment. He added the biggest concern of the HOA is to provide maintenance access and that same access can double as public access to the area. Commissioner Quinney asked if the basin was included in the calculation of required open space. Mr. Craig Barker answered yes and noted that it must remain in order to meet the requirement. Mr. Norseth stated that the HOA has no desire to eliminate that open space. Commissioner Quinney stated he asked because, in his opinion, the easiest thing would be to deed the property to the adjoining property owners.

Chairman Residori asked if trees will be planted between the residential properties and the basin. Mr. Norseth answered yes.

Commissioner Thomas stated the landscaping plan calls for the pond to be a gravel pond rather than grass and he asked if the HOA is asking for that to be changed. Mr. Norseth stated that surprises him because the basin is already grass, but it is not maintained. He stated there is also an irrigation system and the HOA would prefer that it continue to be grass. He discussed some minor issues with the irrigation system and concluded that he has reviewed all the changes the HOA would like to see relative to the approved landscaping plan.

Commissioner Quinney stated he questions who should actually be making this request. He stated the HOA may know what they want in the development, but he asked if the developer should be the individual making the request. Mr. Craig Barker stated a coordinated effort between the developer and the HOA is not unusual, but he is not sure whether the HOA is a legal

association as required by covenants, conditions, and restrictions (CCRs) of the development. He stated he believes the City needs to talk to Mr. Lyman Barker to determine if he agrees with the proposals of the HOA and he suggested to the Planning Commission that the HOA be asked to retain someone with some design skills that can provide an actual plan detailing their requests to serve as part of the record of this issue.

Commissioner Quinney stated time is of the essence; the Planning Commission does not meet again until the first week in August and he wondered how the HOA would be able to gain approval of their requests in order to complete the work by August 1, 2013. Mr. Craig Barker stated they will not be able to get approval prior to August 1, 2013. Commissioner Quinney asked where Mr. Lyman Barker is tonight. Mr. Craig Barker stated he does not know and he noted this item was generated as a result of a request from the HOA to address the Planning Commission.

Commissioner Brown asked Mr. Norseth if the proper legal documents regarding the HOA have been recorded with the State of Utah. Mr. Norseth answered yes; he explained the papers have been submitted to the State of Utah – he offered a copy for the Planning Commission to review – but noted he has not received any documentation back from the State regarding the submission. Commissioner Brown stated she wants to make sure the HOA has done everything they need to do so that they do not experience any pitfalls along the way.

Commissioner Thomas asked what steps must be taken in order for the HOA to own the parcels of property they have discussed. Mr. Baird stated the parcels are already owned by the Lewis Peak HOA. A short discussion centered on the process for developing a PRUD and at what point ownership of the common areas are transferred from the developer to the HOA, with Mr. Craig Barker noting that ownership of the common areas are based upon the percentage of property owned by the developer compared to the percentage of property that has been sold to private parties. Commissioner Brown noted that the developer still owns all property in Phase II. Mr. Craig Barker stated that if that is the case, the developer may still own a majority of the property in the entire development and, therefore, he is considered the HOA and responsible for common areas. He reiterated he would suggest that the HOA be asked to prepare plans for the amendments to the landscaping plan that they are seeking and ask Mr. Lyman Barker to agree to those changes before coming back for final approval.

Commissioner Quinney stated that he is not happy about this situation and he asked Mr. Norseth and Mr. Baird if the developer is aware that they are making this request tonight. Mr. Norseth stated he did not believe the developer is aware of this issue, unless he read the agenda for the Planning Commission meeting. He stated that he did not inform Mr. Lyman Barker of their request. Commissioner Quinney stated the HOA knew that Mr. Lyman Barker would be the party that would need to ask for these amendments. Commissioner Russell stated that will not be true after August 1, 2013; the HOA should be able to do what they want to do in Phase I after August 1, 2013.

Commissioner Brown asked Mr. Norseth and Mr. Baird if they have read the CCRs for the development. She stated that the CCRs should declare at what point ownership of the common areas is relinquished to the HOA. Mr. Baird stated that he does not recall exactly what the CCRs

say, but he did recall that at a certain point, after a certain percentage of lots have sold, the HOA was to organize. He stated that a few months ago the development reached that point and the neighborhood organized a meeting with Mr. Lyman Barker about forming and organizing the HOA; Mr. Lyman Barker had already formed a non-profit company to serve as the HOA, but that company – formed in 2008 – had been expired for over two years and it could not be renewed. Mr. Baird stated he is an attorney and after seeing that problem he requested that Mr. Lyman Barker fix the entity that no longer legally existed by creating an entity that the residents could take control of. He stated that Mr. Lyman Barker did not take the necessary steps to form the entity and, as a result, the neighborhood met last week to proceed. He stated that in his opinion, according to the terms of the HOA bylaws and the CCRs, the meeting was properly noticed and at that meeting the residents elected an HOA board, which consisted of himself, Mr. Norseth, and another person that is not present this evening. He stated the three of them then prepared new articles of incorporation and signed them and yesterday he delivered them to the State of Utah Division of Corporations in order to legally form the HOA. He stated that as a neighborhood, they are extremely frustrated with Mr. Lyman Barker and his failure to complete the common space and address the issues that are listed on Mr. Kerr's punch list. He stated many of the items have not been done and the residents are frustrated; they would encourage the City to do whatever necessary to move forward with completing the project.

Mr. Craig Barker stated he believes the City can act, but Mr. Lyman Barker and the HOA will have to work through some of these issues. He stated he feels the Planning Commission is obligated to deal with the legal agent regarding this proposed change; they must present their proposal in writing and the Planning Commission can act on it at the next meeting. He stated there are several issues that can be worked out by that date; the next regularly scheduled meeting is August 7, 2013.

Commissioner Quinney stated the Planning Commission only meets twice each month and if the HOA would like the body to act on something at the next meeting they need to be prepared.

Commissioner Thomas asked if the Planning Commission can take action tonight. Mr. Craig Barker stated the Planning Commission cannot take action because there is nothing to act upon; the body needs an official document in hand to approve what will be part of the official record of this development. He stated the Planning Commission can, however, tell the HOA how they feel about what has been proposed and if there are any misgivings those should be expressed.

Commissioner Brown stated that of all the Planning Commissioners she is the one that likely needs the most convincing because she has been a Planning Commissioner for long enough that she knows the project from the beginning. She stated that if the request represents what the homeowners in the development want and they are all happy with it, she can accept an easement that allows for maintenance of the detention pond, but also provides public access. She added she has no problem with the elimination of the stairs that would lead to the bottom of the pond and she also does not see a need for the trail around the top of the pond. She stated Mr. Lyman Barker will probably agree to those things as well because it will ultimately save him money. She added, however, that the work needs to be completed according to past direction of the Planning Commission; this should be an example to all developers that the Planning Commission will accept a development the way it is proposed and the homeowners purchase their property

based on those proposals and promises. She reiterated that she is accepting of the requested changes, but she feels that the August 1, 2013 deadline to complete the work must be held.

Mr. Kerr briefly stated what must be completed by August 1, 2013; he stated those items that have been requested by the HOA will be removed from the list and he will not require them to be completed by August 1, 2013. He stated all other items that were on the punch list must be completed by August 1, 2013. He stated he is hopeful that the Planning Commission can take an official action on the items that have been requested on August 7, 2013.

Chairman Residori stated that he is in agreement with Commissioner Brown that the homeowners live in the subdivision and they know what they want and their requests seem very reasonable and he would support it. Commissioner Quinney stated the assumption is being made that Mr. Lyman Barker will agree with the items being requested. Commissioner Brown reiterated the requests will save Mr. Lyman Barker money.

Mr. Norseth stated the HOA has heard that because Mr. Lyman Barker was so delinquent the City was planning to use the escrow money and install landscaping according to the adopted plan. He stated the residents thought that would be a waste of money so they decided to approach the money to reach an agreement not to proceed with expenditures associated with the trails. He stated he will now work with Mr. Lyman Barker to determine if it will be possible to transfer his interest in the HOA over to the new HOA. He stated he attempted that two months ago and it did not happen, but he and the other HOA board members will try again. He stated that the HOA will prepare a landscape plan to be approved by the Planning Commission at the next meeting. A short discussion centered on what the HOA would need to submit to City staff prior to the Planning Commission meeting.

Commissioner Russell stated that if Mr. Lyman Barker does not do any work by August 1, 2013 the HOA will be working with the City regarding the amendments to the landscaping plan. Mr. Craig Barker stated Mr. Lyman Barker still owns the property and the escrow money is his. Commissioner Thomas agreed and clarified that the City, through Mr. Kerr, will be forced to install the landscaping as approved in the plan.

Commissioner Brown summarized the items that will be removed from Mr. Kerr's punch list prior to concluding discussion on the item.

4. CONSIDERATION TO APPROVE A BOUNDARY LINE ADJUSTMENT FOR 343 EAST ELBERTA DR.

A memo from Community Development Director Craig Barker explained this proposal is to transfer property between family members. The existing parcel owned by Mr. David Brimhall and his wife April is presently 11,522 square feet in the Residential RE-20 Zone. The additional property will increase the lot area to just over one half acre which will now meet the area requirement for the Residential RE-20 Zone. Staff has no objection to this Boundary Line Adjustment.

Mr. Barker summarized his staff memo and reviewed the plat for the subject property and highlighted the boundary line that will potentially be adjusted. He stated the request is fairly straightforward and staff recommends approval.

Commissioner Quinney made a motion to approve a boundary line adjustment for 343 East Elberta Drive. Commissioner Brown seconded the motion.

Voting on the motion:

Chairman Residori	yes
Commissioner Brown	yes
Commissioner Quinney	yes
Commissioner Russell	yes
Commissioner Thomas	yes

The motion passed unanimously.

5. CONSIDERATION TO APPROVE A CONDITIONAL USE PERMIT TO SELL AND BUILD CUSTOM FURNITURE FOR RANDY CURTIS, LOCATED AT 740 EAST 1700 NORTH.

A memo from Community Development Director Barker explained this proposal is to build custom furniture ordered over the internet or by other means. A Conditional Use Permit is required because this is a Home Occupation using an on-site garage. The neighbors have been notified of this application and asked to respond if they have any questions or desire additional information. It is not known by staff the amount of time that will be spent for this occupation. There are certainly some issues that need to be addressed such as noise, waste, perhaps odors, and others. The Planning Commission should question the applicant in depth regarding his business. He said he didn't think that it will be a full time business and may, only operate a few hours a month. If the Planning Commission determines that controls for impacts are desirable, the Planning Commission should evaluate conditions and describe the impacts that need to be addressed and let the applicant suggest the method that will mitigate the impact.

Mr. Barker summarized his staff memo and reviewed an aerial photograph of the subject property to orient the Planning Commission with its location and how close it is to adjacent properties.

Randy Curtis, 740 East 1700 North, stated he plans to operate his business from the garage on the property and all of his paint work is done by hand. He stated he cuts wood for his furniture in the back corner of the garage. He stated he has talked with a lot of his neighbors, who are good friends of his, and most of them have said that they can barely hear him when he is working in the garage. He stated he also has a full time job and to this point furniture building has just been a hobby for him. He stated he is now at the point that he wants to go further with it.

Mr. Barker asked Mr. Curtis to state how many hours in a given week he would likely be working on furniture in the garage. Mr. Curtis stated that he will not be working all week long in

the garage and instead he will likely only be working one day on the weekend – most likely on Saturday afternoon.

Commissioner Russell inquired as to what types of saws Mr. Curtis uses, to which Mr. Curtis responded a chop saw and a skill saw. He added that he also uses a router and a couple of other smaller hand tools. He stated that his house is behind his parents' house and they have said they never hear him working; his house is 300 feet from the road. He stated that when he is not using the building to build furniture he parks his vehicles there and he stores his camp trailer on the east side of it.

Chairman Residori stated it looks like the garage was designed for recreational vehicle (RV) storage because it has three big doors. Mr. Curtis stated that is true; he keeps his RV in the building and in the middle bay he parks two vehicles. He stated he works on furniture in the third bay area.

Chairman Residori stated it appears that the garage is very close to the property owned by the Harames'. Mr. Curtis stated that the Harames' house is the closest house to his garage and it is approximately 20 feet away. Chairman Residori asked Mr. Curtis if he feels his business will impact them. Mr. Curtis stated that they have not had any problems with him and the work he has done in the past and he does talk to them often. Chairman Residori reiterated Mr. Curtis said he would likely only work one day each weekend. Mr. Curtis stated that is correct and noted that he may work one or two days during the week. Chairman Residori inquired as to Mr. Curtis' hours of operation if he chooses to work during the week. Mr. Curtis stated it would strictly be daytime use between 4:00 to 7:00 p.m., but on the weekends he could begin work as soon as 8:00 a.m. Chairman Residori asked if all work will be confined to the garage. Mr. Curtis answered yes. Chairman Residori asked if that will be the case even during the summer months, to which Mr. Curtis answered yes. Chairman Residori asked Mr. Curtis if he opens the doors on the garage. Mr. Curtis stated he usually opens the windows and the door of the bay in which he is working. Chairman Residori asked what types of furniture Mr. Curtis constructs. Mr. Curtis stated that he builds bedroom sets. Mr. Barker stated that Mr. Curtis does great work.

Mr. Kerr stated that he needed to leave the meeting at 8:00 p.m. and he had a few questions to ask before leaving. He asked what type of dust collection system Mr. Curtis will have in the garage. Mr. Curtis stated that he has a shop-vac that he hooks to his chop saw and when the saw is in use he turns the shop-vac on and it sucks up all the dust. Mr. Kerr stated he would like to see that system if the CUP is approved.

Chairman Residori asked how many people are involved in the business. Mr. Curtis stated it currently takes him one to two weeks to construct a bedroom set once it is ordered and he is the only person that will be working in the business. Mr. Barker added that only people living in the dwelling are permitted to work for a home based business. Chairman Residori stated that is not always the case. He then asked Mr. Curtis if he plans to store any flammable materials in the garage, to which Mr. Curtis answered no. Mr. Kerr asked Mr. Curtis if he stains his furniture. Mr. Curtis answered no and reiterated all of his furniture is painted; he purchases a gallon of paint when an order is placed and the paint is water based so the fumes generated by the paint are not bad. Chairman Residori asked how much traffic will be generated by the business. Mr.

Curtis stated that he does most of his business by phone or the internet, though people do stop at his house to see what he has to offer. He added those that do place an order with him only come back to the house one time to pick it up. Chairman Residori asked Mr. Curtis if he constructs entire bedroom sets. Mr. Curtis stated that he usually only constructs a bed. Chairman Residori asked Mr. Curtis if he constructs one set maximum in a two week period, to which Mr. Curtis answered yes. Chairman Residori asked if any of the furniture will be upholstered, to which Mr. Curtis answered no. Chairman Residori then inquired as to Mr. Curtis' overall plan. Mr. Curtis reiterated this started as his hobby and it has grown through word of mouth and he wanted to seek a business license in order for it to be a legal operation. Chairman Residori asked Mr. Curtis if he plans to rent a larger space if his business does grow much bigger. Mr. Curtis stated he does not envision that happening at this point because he still has a full time job outside of his home. Chairman Residori stated Mr. Curtis' property is fairly far away from other properties except for one, but the reason he is asking all of his questions is because of a recent situation with a home occupation in the City that has torn a neighborhood apart. Mr. Curtis stated that he does not see the business growing much bigger than it currently is and he reiterated he wanted to make sure his business was legal.

A brief discussion centered on the proximity of other properties to Mr. Curtis' garage with Mr. Curtis reiterating that he has a good rapport with all of his neighbors and they have all said they do not hear him when he is working in his garage.

Commissioner Thomas made a motion to approve a conditional use permit to sell and build custom furniture for Randy Curtis, located at 740 East 1700 North. Commissioner Russell seconded the motion.

Mr. Barker stated that before the Planning Commission votes he would suggest adding a condition that if the City does receive a complaint about the business then Mr. Curtis will be brought before the Planning Commission to address the complaint. He stated he does not believe that any complaints will be filed, but he thinks that Mr. Curtis should be made aware that could happen. Commissioner Thomas agreed that is a good idea and he wanted Mr. Curtis to be aware that if there is a public complaint filed Mr. Curtis will be called before the body for review of his CUP.

Commissioner Quinney stated his main concern would be if Mr. Curtis ever planned to change his painting methods by switching painting products; if he ever chose to use a varnish that could cause a problem because Mr. Curtis is not set up to use that product. Mr. Curtis stated he would not do that.

Commissioner Brown noted Mr. Kerr may come and inspect Mr. Curtis' work space to ensure he is comfortable with the dust collection system.

Commissioner Thomas amended his motion to approve a conditional use permit to sell and build custom furniture for Randy Curtis, located at 740 East 1700 North, with the condition that upon the City receiving a complaint regarding the permit Mr. Curtis will be required to appear before the Planning Commission for review of the permit. Commissioner Brown seconded the motion.

Voting on the motion:

Chairman Residori	yes
Commissioner Brown	yes
Commissioner Quinney	yes
Commissioner Russell	yes
Commissioner Thomas	yes

The motion passed unanimously.

6. DISCUSSION AND/OR ACTION ON THE MASTER PLANNED COMMUNITY ZONE.

A memo from Community Development Director Craig Barker explained staff has prepared, in ordinance form, a “Master Planned Community Zone”. This zoning proposal is in many ways similar to a PRUD Zone. It allows for different land uses than those which are usually found in the type of residential zones in the City Zoning Ordinance. It allows for units to be transferred from area to area based on an approved plan. It also may allow differing land uses than those normally allowed within a standard zoning category. The process requires extensive negotiation between the developer and the City to create a Community Master Plan Map and a Development Agreement which is highly detailed with descriptive information about the overall development of the area within the Master Planned Community Zone. The Planning Commission needs to be well schooled with regard to the proposed development descriptions and the Development Agreement because these two documents will guide the development of the MPC Zone area for years into the future.

Commissioner Brown made a motion to table discussion and/or action on the Master Planned Community Zone. Commissioner Thomas seconded the motion.

Voting on the motion:

Chairman Residori	yes
Commissioner Brown	yes
Commissioner Quinney	yes
Commissioner Russell	yes
Commissioner Thomas	yes

The motion passed unanimously.

7. DISCUSSION ON THE MIXED-USE ZONE.

A memo from Community Development Director Craig Barker explained that along with this Staff Report is another Mixed-Use Zone Ordinance from the Chairman of the Planning Commission. This seems to fit our needs as well. Please review and be prepared for a continuing discussion.

Mr. Barker reviewed his staff memo. He stated he wants to address the characteristics commonly seen in a mixed-use zone and gauge the Planning Commission's comfort level with those various characteristics. He stated this information will be used to create a zone for the Planning Commission to consider. He provided an overview of the mixed-use zone characteristics document included in the Planning Commission packet.

Commissioner Quinney stated that the comment has been made that the area in which a mixed-use zone may be located would become the City center, but he does not understand how that would happen. Mr. Barker stated that a mixed-use development would include residential, dining, and entertainment uses and it would attract pedestrian activity; people tend to gather in these types of developments. He added there may be a potential to locate the City Hall building in such a development similar to what happened in Sandy City. Commissioner Quinney stated Ogden City has a mixed-use development called The Junction and he is trying to visualize how such a development would look in North Ogden. Mr. Barker stated he does not think a development as massive as The Junction would happen in North Ogden and his vision is that there will be more of a village type of development with one or two story buildings. He noted some jurisdictions limit the size of retail structures that can be located in mixed-use developments because they do not want a big-box or grocery store.

Commissioner Brown suggested that Mr. Barker research City documents approximately seven or eight years ago when the City had a design committee that made a recommendation for what they felt the feeling of the City should be. She stated she would like to incorporate some of that information into the zone recommendation. Mr. Barker stated that he has talked about that with his staff and they spent time reviewing the design standards; many of them already fit into the mixed use zone.

Chairman Residori stated the Economic Development Committee has talked about branding of the City and no one has been able to arrive at a good handle of what the brand of the City should be. Commissioner Brown stated the information from the design committee would address branding as well. Mr. Barker noted mixed-use developments usually have a theme that establishes the type of uses found in the project. He added that it is his opinion that there will not be many mixed-use developments in the City because there are not many areas in which they would fit. He stated that may change when the General Plan is updated and throughout that update it would be a good idea to determine the minimum size of property on which a mixed-use development could be located. Chairman Residori asked if the General Plan will encompass property to the south of the City that could potentially be part of the City in the future. Mr. Barker stated there is not much unincorporated property and the City is limited in its expansion; in 1980 all cities were required to create an annexation plan by which they declared the areas they could service that could be annexed in the future. He noted the unincorporated area that could potentially be annexed into the City ends at 1500 North on Washington Boulevard. Chairman Residori stated that is a lot of area. Mr. Barker noted most of the expandable area of the City is located to the west and north and it will be interesting to review those areas and associated development through the process of updating the General Plan; the Planning Commission will have a lot of input throughout that process.

Commissioner Quinney stated that if a zone is established it must be assigned to a parcel of property, so not only does the Planning Commission need to create the zone, but they need to determine where in the City the zoning will be located. Mr. Barker stated that is correct and he feels that that will be guided by the process to update the City's General Plan; the Planning Commission will be asked to define the City's future commercial development boundaries. Commissioner Quinney stated that is somewhat controlled by the layout of City roads. Mr. Barker stated that is correct and he briefly referenced recommendations of the Wasatch Front Regional Council (WRFC) 2040 plan. He then continued to review the zoning document included in the Planning Commission packet, focusing on the density of residential uses in a mixed-use development.

Commissioner Quinney asked about parking; he stated the apartments that are located near the Ogden LDS Temple have underground parking associated with them, but in the space that is available for a mixed-use development in North Ogden he does not believe a potential developer can afford to use up very much land for parking. Mr. Barker stated that at The Junction there is on-street parking as well as a parking structure; the Planning Commission will need to address parking associated with a mixed-use development. He noted that every dwelling unit in the City must have two parking spaces and in multi-family developments there must be one guest parking space for every three or four units. He stated those calculations will be used to determine the appropriate parking for multi-family projects. He stated that for retail uses there must be one parking stall for every 200 square feet of retail space.

Mr. Barker then continued his review of the zone document in the Planning Commission packet and noted that mixed-use developments are usually designed with commercial buildings adjacent to public streets having little or no front yard setback. Commissioner Brown stated she does not care for that look. Mr. Barker stated Commissioner Brown and others have expressed that opinion, but that is traditionally how mixed-use developments are designed. Commissioner Quinney stated parking is also a big issue with this type of design and a short discussion centering on setbacks and parking then ensued. Commissioner Brown added she does not like to shop in businesses that have entrances between walls; women feel very insecure in those types of places in the evening hours. She stated she feels that is one of the reasons the Ogden City Mall was not successful and she noted she would prefer developments with a more open design. Mr. Barker noted that most mixed-use developments are designed in a way that lends itself to more openness. Commissioner Brown referenced the mixed-use development in Syracuse and stated the entrance to it is very narrow and closed off and that is intimidating to her. Mr. Barker stated he does not feel that development can be used as an example of a good design. He stated he envisions a design that is much more open and developments designed in that way seem to be successful.

Commissioner Russell asked if there are any other examples of successful mixed-use developments that are more open. He referenced a development in the southern part of Logan that includes a hotel and restaurants. Mr. Barker stated he is not familiar with that, but he will try to find examples of the type of mixed-use development he is referencing. Commissioner Brown stated that there is a great example of an open mixed-use development in Cedar City. Mr. Barker agreed and stated there are several great examples out of town.

Chairman Residori stated that the development across Highway 89 from the Pepsi Cola plant is not a traditional mixed-use development, but includes many dental and medical offices and the backside of those businesses front Highway 89 and that is what he envisions when talking about a mixed-use development. He stated that the area is slightly landscaped, but none of the buildings face the street. Mr. Barker stated the opposite is true in a mixed-use development; the front of a retail or commercial building would face the public street. Chairman Residori stated he does not know if that would be possible on the property that is currently occupied by Country Boy Dairy. He stated that he did not think people would park on Washington Boulevard to access a mixed-use development there and he noted there is not much parking along Washington Boulevard now even though it is allowed. Mr. Barker stated that is because Washington Boulevard is not pedestrian friendly, but this is an attempt to correct that. There was a short discussion centering on a better way to orient the buildings in order to encourage more on-street parking and pedestrian activity with Chairman Residori stating he would like to see an actual plan for a mixed-use development in that area.

Mr. Barker stated he will attempt to draft a mixed-use zone ordinance for the Planning Commission to begin seriously reviewing and discussing.

Commissioner Thomas stated it is appropriate for the Planning Commission to create a zone that has certain standards with the developer being required to present their plan for a mixed-use development to the Planning Commission based on their desired location. Mr. Barker agreed and noted the zone would include a set of standards and the developer would be required to provide a very detailed drawing to meet the standards or request a variation to the standards. He stated the Planning Commission would be responsible to approve a final development plan highlighting the location, land uses, and residential densities as well as a development agreement detailing what the developer agrees to do in the development. He concluded by stating he would like the Planning Commission to review the documents he has provided them and send any feedback to him so that he can prepare a detailed draft ordinance for review or consideration at the next meeting. Chairman Residori stated the documentation includes photos and a sample of how a mixed-use development could potentially be laid out in a town with smaller areas available for this type of development. Mr. Barker then stated it may be a good idea to have a joint work session meeting with the City Council before the Planning Commission puts in hours of work only to find out that their proposal regarding a mixed-use zone ordinance is not acceptable to the Council.

Commissioner Quinney stated that it may be a good idea to get input on the zone ordinance from a developer. Mr. Barker stated that is a good idea and he can forward the draft documents to the City's economic development consultant for his input. Commissioner Thomas stated that he does not want to form a zone around one developer's input and he would rather create the zone and then allow a developer to come to the City with their proposal for a development. He stated the Planning Commission can then determine rules or conditions to apply to that development. Commissioner Quinney stated there is a good developer, The Boyer Company, "waiting in the wings" to develop their property. Mr. Barker stated that he can call the agent for the property and ask if they would like to provide input.

8. PUBLIC COMMENTS.

There were no public comments.

9. PLANNING COMMISSION/STAFF COMMENTS.

Commissioner Brown stated she feels the Planning Commission needs to review the City's home occupation ordinance; she feels the body is skittish after dealing with the recent controversy surrounding the Baguley conditional use permit. She stated she would like to have a document declaring what is allowed and what is not allowed in a home occupation. Chairman Residori stated that he has provided his comments about that same issue via email to the entire Planning Commission. He added the City Council is also expecting a recommendation from the Planning Commission relative to that same issue. Mr. Barker stated he feels that may also be addressed throughout the process of updating the City's General Plan. A short discussion centered on issues occurring in other cities relative to development problems.

A short discussion centered on prospective developments in the City, with Mr. Barker stating that the developers keep information regarding their projects very close to the vest until everything is finalized.

Mr. Barker provided an update regarding the Public Works Facility project.

10. ADJOURNMENT.

Commissioner Thomas made a motion to adjourn the meeting. Commissioner Brown seconded the motion.

Voting on the motion:

Chairman Residori	yes
Commissioner Brown	yes
Commissioner Quinney	yes
Commissioner Russell	yes
Commissioner Thomas	yes

The motion passed unanimously.

The meeting adjourned at 8:48pm.

Planning Commission Chair

Stacie Cain,
Community Dev. Coord./Deputy City Recorder

Date approved